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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/597,294

08/23/2006

Michael Hahn

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EXAMINER

DEUBLE, MARK A

ART UNIT

PAPER NUMBER

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/597,294	<b>Applicant(s)</b> HAHN, MICHAEL	
	<b>Examiner</b> MARK A. DEUBLE	<b>Art Unit</b> 3651	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/15/07, 7/19/06</u> .                                       | 6) <input type="checkbox"/> Other: ____.                          |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the locking element of claim 8, the mechanical coupling between the drive and the central axis of the star-type reel stand formed by the double cam of claims 11-15 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

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2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 11-15 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Specifically, claim 11 states that the drive is mechanically coupled to a drive or a central axis, but the specification and drawings fail to show or describe any such coupling. Claim 12 states that "the drive is designed such that a continuous rotation movement of a central axis of the startype (sic) reel stand is transformed into a cylindrical reciprocating movement of the overslide" but the specification and drawings fail to show or describe any means for achieving such a design. Claim 13 states that "the drive is designed such that there is a pause between the reciprocating movement" but the specification and drawings fail to show or describe any means for achieving such a design. Claim 15 states that "a double cam driven by the drive or the central axis of the star-type reel stand is provided which co-operates with a rocker connected to the overslide" but the specification and drawings fail to show or describe such a double cam or how it would be arranged relative to the rocker and drive. Finally, it should be noted that should the applicant argue that such arrangements are within one of ordinary skill in the art then such arrangements will be deemed to have been obvious.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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5. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-18 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited. In particular, the claims recite a number of elements, such as the drive and the guide rail, without specifying that the invention in fact comprises such elements.

Claims 1 and 11 recite a "star-type reel stand", but the word "type" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "type"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Claim 9 recites the limitation "the lower part" in line 2. There is insufficient antecedent basis for this limitation in the claim. It appears that the claim should depend from claim 4 so that proper antecedent basis for the claim is provided.

Claim 10 recites the limitation "the gap" in line 2. There is insufficient antecedent basis for this limitation in the claim. It appears that the claim should depend from claim 3 so that proper antecedent basis for the claim is provided.

***Claim Rejections - 35 USC § 102***

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6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-3, 6-7, 10-11 and 16-17 are rejected under 35 U.S.C. 102(b) as being anticipated by European document number EP 1 201 546 A1.

The European document shows a device for feeding bags 11 having a spout 15 to a star reel stand 7/8 via a guide rail 83 that cooperates with the spouts to movably hold the bags between an input end 85 and a removal end 87. An overslide 95 coupled to a drive 89 is provided which has an active gripping mechanism 99 that grips the bags on the spout at the removal end of the guide rail and moves them to a feed position on a circular path of holding elements 8 of the star-type reel stand. The gripping mechanism forms a gap which can be varied in size for holding the spout. The gap is formed such that the spout can be gripped in the region of a spout thread while allowing the lower region to be held by the holding element 8. The overslide 95 is disposed vertically and therefore transversely to the guide rail 83 and it is spaced apart from the removal end of the guide rail by a distance smaller than a spout width (see Fig. 3). A cylindrical linear drive 75 is provided to move a push in finger 73 that applies pressure in the direction of the overslide to move the bags in the guide rail toward the overslide. Thus the European document shows all the structure required by claims 1-3, 6-7, 10-11, and 16-17.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 8, 11-15, and 18 rejected under 35 U.S.C. 103(a) as being unpatentable over

European document number EP 1 201 546 A1.

The European document shows all the structure required by the claim, including a locking element/stopper provided on the removal end 87 of the rail. While it is unclear if this locking element is pivotal, such a stopper would be functionally equivalent to a pivotal stopper and therefore the pivotal stopper is deemed to have been an obvious design choice.

In regard to claims 11-15 and 18, it should be noted if the applicant argues that these claims are within the skill of one of ordinary skill in the art, then they are obvious in view of the '546 European document.

10. Claims 4-5 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over

European document number EP 1 201 546 A1 in view of PCT document number WO 03/024800 A2.

The European document shows generally all the structure required by claims 4-5 and 9 except for the overslide with the upper part and lower part of claims 4-5 and the drive connected to the lower part of claim 9. However the PCT document shows a gripping mechanism for spouts that has an upper part 6 with a downwardly pointing end portion and a lower part 16 mounted on a rail fixed relative to the upper part that is movably mounted relative to the upper part via a drive 15. The low part forms a gap between itself and the downwardly pointing end portion. The PCT document teaches that its gripping arrangement is an art recognized equivalent to the gripping element of the European document. Therefore it would have been obvious to one

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of ordinary skill in the art at the time of the invention to utilize the gripping element of the PCT document in place of the gripping element of the European document. When this is done, the resulting structure would have all the structure required by claims 1-18.

***Conclusion***

*11.* Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARK A. DEUBLE whose telephone number is (571)272-6912. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene O. Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mark A. Deuble/  
Examiner  
Art Unit 3651

md